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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/071,465

02/08/2002

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P5079

1048

24739 7590 08/13/2007
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EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT

PAPER NUMBER

3694

MAIL DATE

DELIVERY MODE

08/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/071,465

Applicant(s)

PHILONENKO, LAURENT

Examiner

Susanna M. Diaz

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-18 and 20-34 is/are pending in the application.
- 4a) Of the above claim(s) 12-17 and 30-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11,18 and 20-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 7, 2007 has been entered.

Non-elected claims 12-17 and 30-34 stand as withdrawn.

Claims 1, 11, and 18 have been amended.

Claims 3 and 19 have been cancelled.

Claims 1, 2, 4-11, 18, and 20-29 are presented for examination.

Response to Arguments

2. Applicant's arguments filed June 7, 2007 have been fully considered but they are not persuasive.

In response to the Examiner's assertion (in the final Office action mailed March 22, 2007) that the unchallenged Official Notice was established as admitted prior art, Applicant now challenges the admitted prior art. Examiner notes the following discussion of Official Notice taken from the MPEP:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in

the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 (“[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention.”). A general allegation that the claims define a patentable invention without any reference to the examiner’s assertion of official notice would be inadequate. If applicant adequately traverses the examiner’s assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (“[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings” to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner’s assertion of official notice or applicant’s traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner’s assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate. (MPEP § 2144.03(C))

First, for most of the Official Notice statements, Applicant has not “specifically point[ed] out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.” Applicant’s broad request for references to support Examiner’s statements of Official Notice amounts to nothing more than an unsupported challenge. Second, Applicant’s challenge is not timely. All statements of Official Notice made in the art rejection have been on record since issuance of the non-final rejection mailed on October 11, 2006. In the subsequent response filed on March 22, 2007, Applicant was

silent on the matter of Official Notice. Consequently, the statements of Official Notice made in the art rejection had been established as admitted prior art due to Applicant's failure to adequately traverse the Examiner's assertions of Official Notice. Therefore, Applicant has not sufficiently switched back to the Examiner the burden of supplying references in support of her assertions of Official Notice.

More specifically, regarding the statement, "Official Notice is taken that it is old and well-known in the art of communications to integrate a B-ISDN protocol with an Internet protocol," Applicant states that "Applicant is not familiar with this being well known in the art and requests the Examiner provide a reference to teach integrating B-ISDN with Internet Protocol." (Page 7 of Applicant's current response) Had this challenge been seasonable, it would have been an adequate challenge. Nevertheless, the Examiner provides the following reference to support this statement of Official Notice: Tao et al. ("Internet Access via Baseband and Broadband ISDN Gateways").

Regarding the statement, "Official Notice is taken that it is old and well-known in the art of communications to utilize network bridges as an inexpensive and relatively easy way to connect local area network (LAN) segments," "Applicant claims that the control node of the system, dynamically determining and changing QoS for customers, is a network bridge. Applicant requests that it be shown in the art." (Page 7 of Applicant's current response) The Official Notice did not address the QoS details *per se*; therefore, Applicant's challenge is not persuasive (even if it had been timely filed).

Regarding the statement, Official Notice is taken that it is old and well-known in the art of automation to manually perform an activity that is typically automated,"

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"Applicant argues that the agent would be able to dynamically, on the fly, evaluate the future potential profit of the call and alter the QoS accordingly, Applicant is unaware of this feature being taught in the art and requests the Examiner produce such art." (Page 9 of Applicant's current response). Again, this statement does not appear to challenge the Official Notice statement *per se*; therefore, Applicant's challenge is not persuasive (even if it had been timely filed).

On page 9 of Applicant's current response, "Applicant argues that Iwamura does not need to determine a future potential benefit or profit based on the current communication because payment is secured prior to the QoS service being rendered..." The Examiner respectfully disagrees. In ¶¶ 24-25 of Iwamura (please see both the human-machine translation and the manual translation for added clarification), if a fee is not paid or cannot be paid, the user is not necessarily denied service. Instead, the user may be provided with a communication mode for the network, but that user is not necessarily guaranteed the requested quality. Furthermore, the QoS fee may be dynamically changed in response to transmission capacity demand (¶ 28); therefore, the user is not charged for all future services up front. Instead, Iwamura is making a reasonable decision as to which users will be able to cover their expenses. Additionally, Levy has been cited to further teach the concept of determining an expectation of future profit as result of a session. In response to this assertion, Applicant argues that Levy merely classifies call routing priority based on the origination location of a called 800 number and, therefore, "Levy fails to teach the session request received from the client is a request for an agent of a session host nor that the expected future benefit is

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determined as a result of the session, as claimed in applicant's invention." (Pages 10-11 of Applicant's current response) The Examiner respectfully disagrees. Column 10, lines 32-45 explicitly state the following:

(a) FIG. 3 shows the general multi-class policy, which maximizes expected profit per call. It uses revenues per class, cost per class/site, and an abandonment function. The call is routed to the site which maximizes expected profit for the call. In a typical moderate congestion situation, low revenue calls are likely to be completed to the nearest available site (lowest call transport cost) even if that site currently has a long expected delay. High revenue calls are likely to be sent to the site having the shortest expected delay to minimize the possibility of call abandonment. Intermediate revenue calls will be handled accordingly, by the policy. As congestion increases further, some low revenue calls may be blocked.

As seen in column 12, lines 39-47, the caller is being routed to "one of a plurality of agents connected by said one of said destinations," so clearly the caller's session is provided in response to a "session request for the agent from the client," as recited in the claimed invention. Furthermore, as seen in the above cited except from column 10 of Levy, the 800 number itself is used to identify the class of the call. The class of the call in combination with the cost of the call are used to determine potential future profit from the call (i.e., resulting from the session between the caller and agent). The abstract of Levy clarifies, "Different types of calls, such as orders, repair requests, and general information requests can be distributed differently. For example, if the criterion is maximizing profit, then calls of the most profitable type may be given preference for completion, while, during a busy period, some of the less profitable calls are rejected."

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Consequently, the Examiner maintains that the claimed invention is obvious over the cited prior art for the reasons presented in the art rejection.

Priority

3. The validity of the claim of priority to application no. 09/127,284 as a continuation-in-part application is questioned since there is no common inventor. Grigory Shenkman is listed as the sole inventor of parent application no. 09/127,284 and Laurent Philonenko is listed as the sole inventor of the instant application.

Furthermore, the instantly claimed invention is not fully disclosed in the parent application; therefore, the currently presented claims will be granted a priority date of February 8, 2002 (i.e., the filing date of the instant application) for purposes of examination.

Please correct the claim to priority accordingly since the instant application does not have at least one common inventor with the parent application, which is required to claim Continuation-in-Part status (see MPEP § 201.08).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1, 2, 6-10, 18, 20-22, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwamura (JP 10-51445 A) in view of Levy et al. (U.S. Patent No. 5,291,550). (A human-machine assisted translation, obtained from the web site of the Japanese Patent Office, has been provided. Additionally, the manual translation is incorporated into the Office action to provide further clarification for the human-machine assisted English translation of Iwamura (JP 10-51445 A), previously provided to Applicant.)

Iwamura discloses a quality of service (QoS) implementation system for a client requesting a communication session with a session host, comprising:

[Claim 1] a control node of the session host connected to the system for receiving a session request from the client and for soliciting client data associated with the request (Detailed Description: ¶ 18 -- The user sends a QOS demand to the network);

a data storage system for storing client data (Abstract; ¶ 22; Detailed Description: ¶¶ 24-25 -- History data is stored. Furthermore, a user's conformance with a traffic agreement is assessed, thereby implying that such a traffic agreement is stored for future reference);

a processor for comparing solicited client data to stored client data and for determining a quality of service option from more than one available option (Detailed Description: ¶¶ 24-25 -- If a user has met the conditions of a traffic agreement, then the demanded QOS is maintained and guaranteed. Otherwise, e.g., if the user has insufficient funds, the demanded QOS is not maintained and/or guaranteed); and

an option execution module for executing the selected quality of service option for application to the session (Detailed Description: ¶¶ 24-25 -- If a user has met the conditions of a traffic agreement, then the demanded QOS is maintained and guaranteed. Otherwise, e.g., if the user has insufficient funds, the demanded QOS is not maintained and/or guaranteed);

characterized in that upon receiving a session request at the control node, the control node solicits data from the request and accesses the data storage system to compare the solicited data with data stored therein and wherein depending on the results of data comparison, determining at least an expectation of future benefit, a QoS level appropriate to the criteria governing the comparison is selected and executed for application to the granted session (Detailed Description: ¶¶ 24-25 -- If a user has met the conditions of a traffic agreement, then the demanded QOS is maintained and guaranteed. Otherwise, e.g., if the user has insufficient funds, the demanded QOS is not maintained and/or guaranteed. A person who has the funds to pay for services rendered and pays accordingly can be interpreted as being a more profitable customer than someone who does not have the funds to pay for services rendered and therefore cannot pay for such services. The service provider is expected to reap greater benefit from a user who can pay for a granted session as opposed to a user who cannot pay for the granted session, which is why the service provider guarantees better service to the more financially solvent user. Since a determination of expected benefit is only a prediction, there is no requirement that the prediction be 100% accurate; instead, it is a reasonable guess anticipating future behavior, which is an assumption made by

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Iwamura when deciding which QOS level to maintain and/or guarantee for each user based on the user's financial situation);

[Claim 2] wherein the session host is an entity maintaining one or more communication centers (Detailed Description: ¶ 18 -- The user sends a QOS demand to the network);

[Claim 6] wherein the control node is a network server (Detailed Description: ¶ 18 -- The user sends a QOS demand to the network);

[Claim 7] wherein the data storage system is a customer resource management database maintained within the communication center subject to the requested session (Abstract; ¶ 22 -- "A QOS management station consisting of a hub and an exchange in a network sets QOS...the QOS management station is provided with a history management part consisting of a CPU, a RAM, a hard disk, etc..."; Detailed Description: ¶¶ 24-25 -- History data is stored. Furthermore, a user's conformance with a traffic agreement is assessed, thereby implying that such a traffic agreement is stored for future reference);

[Claim 8] wherein the data storage system is a customer resource management database maintained locally at the control node (Abstract; ¶ 22 -- "A QOS management station consisting of a hub and an exchange in a network sets QOS...the QOS management station is provided with a history management part consisting of a CPU, a RAM, a hard disk, etc..."; Detailed Description: ¶¶ 24-25 -- History data is stored. Furthermore, a user's conformance with a traffic agreement is assessed, thereby implying that such a traffic agreement is stored for future reference);

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[Claim 9] wherein application to the session includes propagation of replacement quality of service criteria that takes priority over any existing quality of service already established in the path of communication between the client and the client's destination (Detailed Description: ¶¶ 24-25 -- If a user has met the conditions of a traffic agreement, then the demanded QOS is maintained and guaranteed. Otherwise, e.g., if the user has insufficient funds, the demanded QOS is not maintained and/or guaranteed. The network performs this evaluation and provides the appropriate QOS levels automatically. When a user's demanded QOS is not guaranteed, the user's demanded quality of service can be replaced, e.g., by a lower quality of service);

[Claim 10] wherein determination and execution of an appropriate quality of service option is automated (Detailed Description: ¶¶ 24-25 -- If a user has met the conditions of a traffic agreement, then the demanded QOS is maintained and guaranteed. Otherwise, e.g., if the user has insufficient funds, the demanded QOS is not maintained and/or guaranteed. The network performs this evaluation and provides the appropriate QOS levels automatically).

Regarding claim 1, Iwamura suggests that the expectation of benefit is profit based (Detailed Description: ¶¶ 24-25 -- If a user has met the conditions of a traffic agreement, then the demanded QOS is maintained and guaranteed. Otherwise, e.g., if the user has insufficient funds, the demanded QOS is not maintained and/or guaranteed. A person who has the funds to pay for services rendered and pays accordingly can be interpreted as being a more profitable customer than someone who

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does not have the funds to pay for services rendered and therefore cannot pay for such services), yet Iwamura does not expressly disclose that the session request received from the client is a request for an agent of a session host nor that the expected future benefit is determined as a result of the session. However, Levy makes up for these deficiencies in its teachings of a call center in which callers are economically routed to an agent based on various factors, such as if the caller or call center is willing to pay the extra cost of routing to a remote location or factors regarding the expected profit and cost attributed to the call center's session associated with answering a caller's call (abstract; col. 3, line 46 through col. 4, line 34). As a preliminary note, it should be pointed out that Levy's "customer" is the customer of the call distributor, i.e., Levy's "customer" is contracting services from the call distributor to route calls from its call originators. Levy's routed calls come from call originators. Based on the nature of a call and real-time variables, such as the network load conditions, the expected revenues and costs of a given call are assessed. The analysis of revenues and costs associated with each call yields an understanding of the probable profitability corresponding to each call. Further, the assessment of whether the main purpose of a call is to place an order or receive general information (as taught in the abstract and col. 3, lines 2-3 of Levy) results in a determination of the probable profitability of a call (Levy: abstract). Similarly, Iwamura assesses a quality of service of communication that will be provided and/or guaranteed to users based on each user's ability to pay for the user's desired quality of service (which is suggestive of future profit, since a service provider profits more from paying customers than from customers who fail to pay their bills). As per ¶¶

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24-25 of Iwamura, if a user has met the conditions of a traffic agreement, then the demanded QOS is maintained and guaranteed. Otherwise, e.g., if the user has insufficient funds, the demanded QOS is not maintained and/or guaranteed. A person who has the funds to pay for services rendered and pays accordingly can be interpreted as being a more profitable customer than someone who does not have the funds to pay for services rendered and therefore cannot pay for such services. The service provider is expected to reap greater profitable benefit from a user who can pay for a granted session as opposed to a user who cannot pay for the granted session, which is why the service provider guarantees better service to the more financially solvent user. Both Iwamura and Levy make business decisions that are expected to economically benefit a service provider and each ultimately renders customer service to its users (based on expected profit) accordingly. Additionally, both Iwamura and Levy attempt to minimize expenses to the service provider by controlling the quality of communication service availed to each user who requests service from the service provider. Levy envisions charging a call center for the receipt of calls via 800 numbers as well as charging for 900 numbers (the charges of which are likely applied to a caller's bill) (col. 3, lines 46-67); therefore, Levy describes a specific environment that would benefit from Iwamura's ability to route communications based on a guaranteed QoS while Iwamura's application to a specific environment would expand the usefulness and marketability of Iwamura's invention. Consequently, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Iwamura to be applied in the area of routing a client to an agent for a communication

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session such that the session request received from the client is a request for an agent of a session host and the expected future benefit is determined as a result of the session in order to increase the usefulness of Iwamura's invention across various fields (including call center management), thereby making Iwamura's invention more comprehensive and marketable.

[Claims 18, 20-22, 27] Claims 18, 20-22 and 27 recite limitations already addressed by the rejection of claims 1, 2, and 6-10 above; therefore, the same rejection applies.

Furthermore, regarding claim 22, Iwamura discloses that, in step (a), the various quality of service options are associated with different levels of bandwidth to be made available for applicable sessions (Detailed Description: ¶¶ 17, 20; claim 5 -- The quality of service effectively refers to a transmission capacity, i.e., bandwidth).

As per claim 27, Iwamura discloses that, in step (d), the client data is solicited dynamically through an automated system (Abstract; ¶ 22; Detailed Description: ¶¶ 24-25 -- The user provides his/her data to the system as needed).

6. Claims 4, 5, 11, 23, 24, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwamura (JP 10-51445 A) in view of Levy et al. (U.S. Patent No. 5,291,550), as applied to claims 1, 18, and 27 above, and further in view of Applicant's admitted prior art (i.e., unchallenged Official Notice). (A human-machine assisted translation, obtained from the web site of the Japanese Patent Office, has been provided. Additionally, the manual translation is incorporated into the Office action to

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provide further clarification for the human-machine assisted English translation of Iwamura (JP 10-51445 A), previously provided to Applicant.)

[Claim 4] Iwamura does not expressly teach that its control node is an Internet protocol router. Instead, Iwamura's control node operates using a B-ISDN protocol (Detailed Description: ¶ 2); however, Official Notice is taken that it is old and well-known in the art of communications to integrate a B-ISDN protocol with an Internet protocol [now admitted prior art]. The use of the Internet facilitates more economical global communications [now admitted prior art]. Since Iwamura's success relies on being able to reach customers who desire its broadband services, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Iwamura such that its control node includes an Internet protocol router in order to reap the benefits of more economical global communications, including access to a larger body of potential customers.

[Claim 5] Iwamura does not expressly teach that its control node is a network bridge. Instead, Iwamura's control node operates using a B-ISDN protocol (Detailed Description: ¶ 2); however, Official Notice is taken that it is old and well-known in the art of communications to utilize network bridges as an inexpensive and relatively easy way to connect local area network (LAN) segments [now admitted prior art]. The modified version of Iwamura (addressed in claim 4) discusses an Internet-integrated version of Iwamura. A LAN is a more localized version, e.g., a subset, of the Internet that enables local users to share information amongst themselves and have greater control over who has access to this information. Therefore, the Examiner submits that it would have

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been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Iwamura such that its control node includes a network bridge in order to facilitate an inexpensive and relatively easy way to connect local area network (LAN) segments, thereby attracting customers who prefer to share information amongst themselves and have greater control over who has access to this information.

[Claim 11] Iwamura does not expressly teach that the determination and execution of an appropriate quality of service option is manually performed by the agent hosting the session. Instead, Iwamura discloses that the determination and execution of an appropriate quality of service option is automated (Detailed Description: ¶¶ 24-25 -- If a user has met the conditions of a traffic agreement, then the demanded QOS is maintained and guaranteed. Otherwise, e.g., if the user has insufficient funds, the demanded QOS is not maintained and/or guaranteed. The network performs this evaluation and provides the appropriate QOS levels automatically). However, Official Notice is taken that it is old and well-known in the art of automation to manually perform an activity that is typically automated [now admitted prior art]. For example, when an automated system is down, it is often important for human users (when possible) to carry out the responsibilities of this automated system by hand in order to minimize inconvenience to customers [now admitted prior art]. Similarly, the ability for a human user to manually override an automated function is important in scenarios where the automated functionality is improperly programmed or is not programmed to address special circumstances that are better appreciated by human reasoning. Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at

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the time of Applicant's invention to modify Iwamura such that the determination and execution of an appropriate quality of service option may be performed manually in order to minimize inconvenience to customers when an automated system (that normally performs these functions) is down as well as to allow a human user (such as the agent hosting the session) to manually override an automated function in instances where the automated functionality is improperly programmed or is not programmed to address special circumstances that are better appreciated by human reasoning.

[Claim 28] Iwamura does not expressly teach that the automated system is an interactive voice response unit; however, Iwamura does receive a quality of service demand request from its users (Detailed Description: ¶¶24-26). Official Notice is taken that it is old and well-known in the art of service provider-customer interactions for a service provider to accept service requests from a user via an interactive voice response unit [now admitted prior art]. The use of an interactive voice response unit is commonly used to reduce the service provider's costs of employing additional human operators to interact with the customers [now admitted prior art]. Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Iwamura such that its automated system includes an interactive voice response unit in order to reduce Iwamura's costs of employing additional human operators to interact with its users.

[Claim 29] Iwamura does not expressly teach that the automated system is an electronic forms processor; however, Iwamura does receive a quality of service demand request from its users (Detailed Description: ¶¶24-26). Official Notice is taken that it is

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old and well-known in the art of service provider-customer interactions for a service provider to accept service requests from a user via an electronic forms processor [now admitted prior art]. The use of an electronic forms processor is commonly used to reduce the service provider's costs of employing additional human operators to interact with the customers since an electronic forms processor processes user requests more efficiently, without requiring human intervention [now admitted prior art]. Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Iwamura such that its automated system includes an electronic forms processor in order to reduce Iwamura's costs of employing additional human operators to interact with its users since an electronic forms processor processes user requests more efficiently, without requiring human intervention.

[Claims 23-24] Claims 23-24 recite limitations already addressed by the rejection of claims 4-5 above; therefore, the same rejection applies.

7. Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwamura (JP 10-51445 A) in view of Levy et al. (U.S. Patent No. 5,291,550), as applied to claim 18 above, in view of Yeh (U.S. Patent No. 6,690,929), and further in view of Applicant's admitted prior art (i.e., unchallenged Official Notice). (A human-machine assisted translation, obtained from the web site of the Japanese Patent Office, has been provided. Additionally, the manual translation is incorporated into the Office action to

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provide further clarification for the human-machine assisted English translation of Iwamura (JP 10-51445 A), previously provided to Applicant.)

[Claims 25, 26] Iwamura does not expressly teach that, in step (d), the client data comprises at least an identified phone number belonging to the client (claim 25); however, Yeh allows cell phone customers to negotiate access to greater or lesser bandwidth based on a willingness to pay the current asking price for the desired amount of bandwidth (col. 3, lines 29-40; col. 4, lines 28-43). In other words, priority is given to certain customers over others in an effort to increase the service provider's profit (which is also suggested in col. 1, lines 59-64 of Yeh). Furthermore, Official Notice is taken that it is old and well-known in the art of cellular phone service for a cellular phone service provider to identify its customers based on their respective cellular phone number(s) [now admitted prior art]. This facilitates record management since cellular phone numbers are identifiers that are unique to the customers using these cellular phone numbers [now admitted prior art]. Since both Iwamura and Yeh are directed toward optimizing network resource allocation (e.g., of bandwidth) to customers who are willing to pay for priority service, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Iwamura such that, in step (d), the client data comprises at least an identified phone number belonging to the client in order to facilitate a more profitable allocation of cellular phone network bandwidth to its customers. Furthermore, by expanding Iwamura's concept of bandwidth allocation to the cellular phone area, Iwamura reaps the benefits of having access to a larger customer base (such as potential for increased profits).

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Furthermore, as per claim 26, Iwamura does not expressly teach that, in step (d), the client data includes a promotional code or password. However, Yeh discloses that an in-call user may be given a "discount [that] can be applied to the quoted price versus a new user. In this way, the greater annoyance to the user from a dropped connection can be taken into account properly through a market mechanism, rather than through the potentially inefficient reservation mechanism." (Yeh: col. 6, lines 34-44). This practice is meant to improve customer satisfaction since Yeh admits that "annoyance to the user is greater for a dropped call than a blocked call." (col. 6, lines 34-36). Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to further modify the Iwamura-Yeh combination such that, in step (d), the client data includes a promotional code or password (as taught by Yeh, i.e., the discount) in order to encourage continued patronage from the cellular phone customers by minimizing customer annoyance due to dropped calls (as suggested by Yeh).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

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Primary Examiner
Art Unit 3694

July 27, 2007